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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/526,250	02/24/2005	Giorgio Armani	23227	6778

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EXAMINER

REESE, DAVID C

ART UNIT PAPER NUMBER

3677

DATE MAILED: 03/24/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/526,250

Applicant(s)

ARMANI, GIORGIO

Examiner

David C. Reese

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 29 December 2005.  
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 10-16 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 10-16 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.  
10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☒ All b) ☐ Some \* c) ☐ None of:  
1. ☒ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.  
5) ☐ Notice of Informal Patent Application (PTO-152)  
6) ☐ Other: \_\_\_\_\_.

### **DETAILED ACTION**

This office action is in response to Applicant's amendment filed 12/29/2005.

#### ***Status of Claims***

- [1] Claims 10-16 are pending.

#### ***Specification***

- [2] The disclosure was previously objected to for informalities. Applicant has successfully addressed these issues in the amendment filed on 12/29/2005. Accordingly, the objection(s) to the specification have been withdrawn.

However, as amended:

- [3] The amendment filed 12/29/2005 is objected to under 35 U.S.C. 132(a) because it introduces new matter into the disclosure. 35 U.S.C. 132(a) states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows: The underlined material beginning with, "The member 2 can be seen...to have a central vertical axis of symmetry..." from page 5 of the most recent correspondence to the office is considered new matter.

Applicant is required to cancel the new matter in the reply to this Office Action.

#### ***Claim Objections***

- [4] Claim(s) 1-9 were previously objected to because of informalities. Applicant has successfully addressed these issues in the amendment filed on 12/29/2005. Accordingly, the objection(s) to the claim(s) 1-9 have been withdrawn.

However, as amended:

[5] Claim 12 objected to because of the following informalities: “lest” in line 2 should be “least”.

Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

[6] Applicant has addressed all rejections under 35 USC § 112 to the Claims in the amendment filed 12/29/2005. Accordingly, the Examiner has withdrawn the 35 USC § 112 rejections.

However, as amended:

[7] Claim 10 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. This is a new matter rejection. The subject matter from the instant claim that is considered new matter is as follows: lines 5-7, beginning with “...having a central vertical axis of symmetry...support surface...” (see above specification objections).

***Claim Rejections - 35 USC § 103***

[8] The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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[9] Claims 10-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Buettell US-6,675,446, in view of Caluori, US-6,109,490, and in further view of case law.

Although the invention is not identically disclosed or described as set forth 35 U.S.C. 102, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a designer having ordinary skill in the art to which said subject matter pertains, the invention is not patentable.

As for Claim 10, Buettell teaches of an article of jewelry comprising:

a cord (13);

a slide member (12) having a central vertical axis of symmetry, a planar support surface at a top of said member transverse to said axis, a pair of holes (14) converging (Fig. 2) from said top surface to a bottom surface on opposite sides of said axis, said cord (13) passing through said holes (14) and said slide member (12) being shiftable along said cords (13); and stop elements (18) at other ends of said cords (13) incapable of passing through said holes (14).

The difference between the claim and Buettell is that Buettell does not expressly state of a separable fastener interconnecting ends of two cords, and that the structure of said slide member is a configuration of three coaxial disks of successively smaller diameters from top to bottom. First and foremost with respect to the latter issue, it would have been obvious to one having ordinary skill in the art at the time the invention as made to change the shape of the slide member, as a change in the shape of a prior art device is a design consideration within the skill of the art. *In re Dailey*, 357 F.2d 669, 149 USPQ 47 (CCPA 1966). In addition, one would have been motivated to change such a shape since Buettell teaches in col. 3, line 12 that, “the slider 12

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is preferably substantially cylindrical in shape, however, other three-dimensional shapes may be employed.”

With respect to the former issue above, Caluori discloses a structure similar to that of McKenzie. In addition, Caluori further teaches of a separable fastener (42) interconnecting corresponding ends of cords; thus creating two potential cords (separated) instead of one (fastened). It would have been obvious to one of ordinary skill in the art, having the disclosures of McKenzie and Caluori before him at the time the invention was made, to modify the other end of the cord (13) of Buettell to include a fastening means, as in Caluori. One would have been motivated to make such a combination because one would want an additional way to attach said cord around a retaining member, as shown by Caluori. In addition, such the act of putting a fastening member to attach two ends of cords together instead of having just a continuous cord is extremely old and well known in the art of jewelry, especially with regard to necklaces, bracelets, and other jewelry structures.

Re: Claim 11, wherein said cords (13) have along their lengths each at least one zone [generating friction in the respective hole sufficient to retain said member in said zone].

The above statements in brackets is an example of intended use/functional language that fails to further limit the structure of the claimed invention. All that the above statement requires, structurally of the prior art, is that the cords have “at least one zone.”

Re: Claim 12, wherein said cords (13) in at least one zone have diameters at least equal to that of the respective hole (14 in Fig. 2).

**[10]** Claims 13-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Buettell US-6,675,446, in view of Caluori, US-6,109,490, in further view of

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Although the invention is not identically disclosed or described as set forth 35 U.S.C. 102, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a designer having ordinary skill in the art to which said subject matter pertains, the invention is not patentable.

As for Claim 13, Buettell in view of Caluori teach of that from claim 10.

The difference between the claim and Buettell in view of Caluori is that the claim recites of a precious ornamental element being supported on said surface of said slide member. Powell, Jr., discloses numerous beads aligned in succession via threaded members (cords). Powell, Jr., is shown in the instant case to show an example of the prevalence in the art of jewelry of adding beads, stones, and other ornamental objects to items of jewelry. In the instant case, it would have been obvious to one of ordinary skill in the art, having the disclosures of Buettell in view of Caluori and Powell, Jr. before him at the time the invention was made, to modify the jewelry item of Buettell in view of Caluori to include a precious ornamental element as taught by Powell, Jr. to be placed above said slide member. One would have been motivated to make such a combination because one would of wanted to achieve that exact design of slide member and ornamental element whereby the slide member acts as an support for various ornamental elements; the ornamental elements of which are selected primarily by the preference of a user or designer for their corresponding aesthetic effects individually and/or in combination with the entire jewelry item.

Re: Claim 15, wherein said ornamental or precious element is a stone (Note that it has been held to be within the general skill of a worker in the art to select a known material on the

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basis of its suitability for the intended use as a matter of obvious engineering design choice. *In re Leshin*, 125 USPQ 416. It is also common knowledge to choose a material that has sufficient strength, durability, flexibility, hardness, and potential aesthetics, etc, for the application, intended use, and design considerations of that material.

Re: Claim 16, wherein said stop elements are balls (18) with diameters greater than that of said holes (14).

***Response to Arguments***

[11 Applicant's amendment filed 12/29/2005 regarding rejections under 35 U.S.C. 103 have been fully considered. Due to the newly amended claims, however, a new grounds of rejection has been issued for the instant set of claims. Consequently, all arguments are considered moot to said new grounds of rejection.



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**Conclusion**

[12] Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

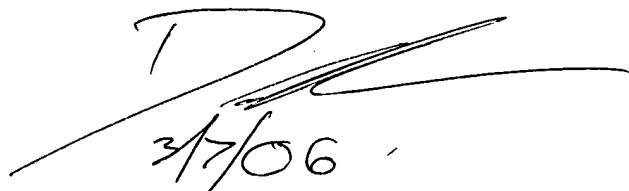
[13] Any inquiry concerning this communication or earlier communications from the examiner should be directed to David C. Reese whose telephone number is (571) 272-7082. The examiner can normally be reached on 7:30 am-6:00 pm Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J.J. Swann can be reached at (571) 272-7075. The fax number for the organization where this application or proceeding is assigned is the following: (571) 273-8300.

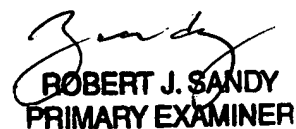
Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

DCR

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Art Unit 3677



3/7/06



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PRIMARY EXAMINER